

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF BOISE PROJECT	)	APPEAL NO. 06-A-2007
BOARD OF CONTROL from the decision of the Board	)	FINAL DECISION
of Equalization of Ada County for tax year 2006.	)	AND ORDER

**EXEMPTION APPEAL**

THIS MATTER came on for hearing August 29, 2006, before Hearing Officer Steven Wallace. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Judith A. Jemmett appeared for Appellant with Paul Deveau, Project Manager, as a witness. Attorney Sherry Morgan appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization (BOE) denying an exemption claim for taxing purposes of property described as Parcel No. R0356000175.

**The issue on appeal is whether the subject property qualifies for an exemption from property taxes pursuant to Idaho Code § 63-602N, exempting operating property of irrigation districts and canal companies.**

**The decision of the Ada County Board of Equalization is affirmed.**

FINDINGS OF FACT

The subject property's assessed land value is \$36,600. Appellant requests a full exemption pursuant to Idaho Code § 63-602N. The land size is .21 acres and classified as commercial property.

The subject is one of three generally contiguous parcels associated with the central offices of Appellant, an irrigation district association. Historically, Appellant enjoyed exempt status on all the parcels. The BOE review for 2006, found the subject parcel should be classified as "non-operating" property. As such, the parcel was placed on the tax rolls and this appeal ensued.

The subject parcel was purchased apart from, and after, the other property. The other

parcels contain the office building and parking lot areas, as well as lawn and other landscaping. The subject is located across an alleyway easement from the office building and is improved only with a lawn and lawn irrigation system.

Appellant purchased subject in a “jungle-like” condition with the idea it would compliment the existing ownership at the site and might also permit some advantageous development in the future. At present there are no imminent or definite plans for such development. The subject property has been used a few times for company picnics.

Appellant considers subject part of the larger ownership and believes it unfair to single out the property, and consider it apart from the others, just because a distinct parcel exists from a prior ownership and the alleyway splits the ownership. There was interest expressed in combining subject with one or both of the other parcels for future tax years.

The County explained exemptions are annually reviewed by the County BOE and the BOE considers each parcel and its use separately. The County asserts exemptions from taxation must always be narrowly construed. The County did not find the subject land use met the definition of operating property found within Idaho Code § 63-602N and therefore denied the exemption application. The County held the subject property was not directly used for maintenance or the business of furnishing water to landowners, only for landscaping. As of January 1, 2006, the lien date, the parcel had a distinct legal ownership.

#### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code § 63-602N (2006) provides in pertinent part:

§ 63-602N. Property exempt from taxation -- Irrigation water and structures --  
Operating property of irrigation districts or canal companies

. . .

(2) Canals, ditches, pipelines, flumes, aqueducts, reservoirs, dams, and any other necessary facility used primarily for the conveyance, storage, or providing of water for the irrigation of lands, are exempt from taxation to the extent irrigation water is thereby conveyed, stored or diverted; provided that if any portion of such property is used for purposes other than irrigation of lands or the conveyance, storage, or providing of water to a nonprofit irrigation company or irrigation district, the assessor shall determine the entire value of such property so used and assess the proportionate part of such property that is devoted to such use.

(3) The operating property of all organizations, whether incorporated or unincorporated, heretofore organized or which shall hereafter be organized, for the operation, maintenance, or management of an irrigation project or irrigation works or system or for the purpose of furnishing water to its landowners, members or shareholders, the control of which is actually vested in those entitled to the use of the water from such irrigation works or system for the irrigation of lands to which the water from such irrigation works or system is appurtenant, is exempt from taxation. *The term "operating property" as used in this section shall include all real and personal property owned, used, operated or occupied primarily for the maintenance and operation of such irrigation project or irrigation works and system or in conducting its business of furnishing water to its landowners, members or shareholders and shall include all title and interest in such property as owner, lessee, or otherwise . . . . (Emphasis added.)*

This case centers on whether subject property's current use is primarily necessary or customary to the delivery of water. Though the Board is *not* entirely convinced of the County's "separate" consideration of subject due to its distinct parcel ownership, we do hold the correct decision was reached. The subject property and its use is simply not critical to, nor is it directly tied to, the delivery of water for irrigators or other users.

Exemptions are legally required to be narrowly construed under the "strict but reasonable" rule. *Ada County Board of Equalization v. Highlands, Inc.*, 141 Idaho 202; 108 P.3d 349 (2005). This excess parcel may someday be incorporated into the "operating property" of Appellant, but as of the lien date for tax year 2006, it simply was not incorporated in any material or synergistic

fashion. Idaho Code § 63-205(1). No clear entitlement to exempt status has been demonstrated. Ownership alone is not sufficient. The current use must also qualify. The decision of the Ada County Board of Equalization will be affirmed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 31st day of January, 2007.